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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------------|------------------|
| 10/668,723 | 09/22/2003 | Lawrence Carl Smith | 2002B133/2 | 2436 |
| 23455 | 7590 | 09/26/2006 | | |
| EXXONMOBIL CHEMICAL COMPANY 5200 BAYWAY DRIVE P.O. BOX 2149 BAYTOWN, TX 77522-2149 | | | | |
| | | | EXAMINER RABAGO, ROBERTO | |
| | | | ART UNIT 1713 | PAPER NUMBER |

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,723

Applicant(s)

SMITH ET AL.

Examiner

Roberto Rábago

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9 and 11-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9 and 11-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 21-41 and 43-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Erickson et al. (US 6,426,394) in view of Brady et al. (US 5,317,036) for the reasons set forth in item 5 of the Office action mailed 3/13/2006.
2. Claims 1, 2, 4-9, 11-20 and 37-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shamshoum et al. (US 6,239,058) in view of Brady et al. (US 5,317,036) for the reasons set forth in item 6 of the Office action mailed 3/13/2006.
3. Applicant's arguments filed 6/28/2006 have been fully considered but they are not persuasive. Applicants argue that the rejections should be withdrawn because suitable motivation for using the required first and second catalyst vessels is not provided by the applied references. In response, it was stated in the prior rejections that the motivation to use a first catalyst vessel in addition to that shown in Brady was based on the applied references in combination with the ordinary level of skill in the art. Applicants' claimed use of various catalyst containers preliminary to adding the catalyst to the reactor system adds little more than a trivial step of moving the catalyst in the overall process of polymerization. For example, claim 37 reads on a process preparing the catalyst slurry in a beaker, then adding it to vessel 50 of Brady, then proceeding with the polymerization of Erickson. Claim 21 is only slightly less trivial, in that mixing the

catalyst slurry in a beaker of larger volume than reservoir 50 would be within the scope of the claim, while mixing the catalyst slurry in a beaker of smaller volume than reservoir 50 would not be within the scope of the claims. Absent some criticality to the use of the claimed containers, such simplistic and common procedures cannot support patentable distinction over the applied references.

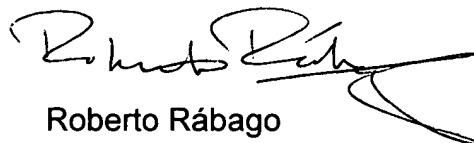
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read "Roberto Rábago", with a long, sweeping horizontal stroke extending to the right.

Roberto Rábago
Primary Examiner
Art Unit 1713

RR
September 17, 2006